

### **Remark**

Applicants respectfully request reconsideration of this application as amended. Claims 91, 103, 110, 115 and 116 have been amended. Claims 1-90 have been cancelled. Therefore, claims 91-117 are present for examination.

### **Number of Claims**

The Examiner has rejected claims 91-92 of an RCE filed on October 9, 2003 on various grounds. Applicants respectfully submit that the RCE for the present application was filed on July 16, 2003 and the return receipt postcard shows a date of July 21, 2003. As listed on that postcard, the RCE included an amendment. This amendment included claims 91-117, which are reproduced in this amendment. Applicants respectfully request correction of the record to refer to the correct papers and requests that all of claims 91-117 be considered in the next Office action.

### ***Res Judicata* Rejection**

The Examiner has rejected claims 91-92 under a judicial doctrine of *res judicata*. According to MPEP 706.03(w), such a rejection has been applied to "the same claim, a patentably nondistinct claim, or a claim involving the same issue." The present claims are not the same as the claims formerly appealed. The Examiner has failed to explain how the present claims are patentably nondistinct or involve the same issues. Applicants respectfully submit that new claims 91-117 are patentably distinct and involve different issues. The distinctions and issues will be brought out in the discussion below. Accordingly, Applicants request that this rejection be withdrawn.

## 35 U.S.C. §102 Rejection

### *Lopresti et al*

The Examiner has rejected claims 91-92 under 35 U.S.C. §102 (e) as being anticipated by Lopresti et al., U.S. Patent No. 5,889,506 (“Lopresti”). Applicants will apply the Examiner's grounds for rejecting Claim 43 to Claims 91, 103, 110, and 116, herein. As Applicants understand the rejection, there are two different views as to how to apply Lopresti.

#### I.

In one view, the multimedia identifier within the television guide is read onto the row of buttons 32 at the bottom of the screen shot of Figure 7. The television program data is read onto the TV schedule of Fig.12 or the VCR schedule (not shown). The various locations are read on the cable head-end, the TV schedule storage and the VCR schedule storage. Alternatively, the multimedia identifier is read on the shopping button 32 of Figure 7. The remaining limitations of the claims are asserted to be inherent.

Turning, for example, to Claim 91, as amended, it recites, in part, “presenting a television programming guide to a user, the programming guide showing a plurality of different television programs on each of a plurality of different television channels.”

The button bar 32 in Figure 7 does not match this recitation. It does not show different television programs on each of a plurality of different television channels. Loprest's Figure 12 is closer to showing different television programs on each of a plurality of different television channels.

Claim 91 further recites, “upon selection of a particular one of the television programs of the television programming guide, presenting television program data about the selected television program.” The television data is recited as being “data about the selected television program.”

Lopresti does not show any data that can be obtained upon selection of a particular one of the television programs e.g. using the Figure 12 display. The button bar of Figure 7, like the channel list of Figure 11, does not allow for the selection of a television program. In Column 9, lines 51 et seq. The user can highlight a program to command the TV or VCR to tune to that program. The VCR control panel of Figure 14, however is reached by selecting the VCR button not by selecting a program. This has no association with any particular television program. Lopresti suggests no other result for tapping “on a show displayed in the schedule.”

Claim 91 further recites, “presenting a multimedia identifier to the user within the television programming guide together with the television program data.” This “television program data” is the television program data that is presented “upon selection of a particular one of the television programs of the television programming guide.”

Lopresti does not show presenting “television program data” as recited in Claim 91 at all. In the Fig. 12 screen there are icons that can be selected. However, these icons are not “together with the television program data” as recited in the claim.

Claim 91 further recites, “the multimedia identifier being associated with further data about a particular television program.” All the buttons and icons in Lopresti, either lead to a program guide such as Figure 12 or a recording control such as in Figure 14. There is no further data about a television program beyond that shown in Figure 12. The Examiner seems to suggest that the audio and video feeds from a receiver or VCR may be further data about a program, however, this is not about the program this is the program.

The Examiner in the most recent Office action suggests that Claim 91 may be read onto use of the shopping button in Lopresti's Figure 7. This application of the reference ignores all of claim's reference to "television program," "data about the selected television program" and "further data about a television program."

These recitations of Claim 91 are believed to clearly distinguish the invention from Lopresti. The remaining independent claims contain similar limitations and all of the other claims are dependent upon one of the independent claims. Accordingly, the application is believed to be allowable over this reading of Lopresti.

## II.

A second view of Lopresti reads the "further data about the selected television program" of Claim 91 on the user-drawn annotations of Lopresti and on the category icons of Figure 12 that can be associated with a particular television program. In this second view, the user selects a channel using the interface of Figure 11. This leads to a screen something like that of Figure 12 showing category icons and perhaps user-drawn annotations. Such a reading, however, ignores several express recitations of Claim 91, as amended.

These ignored recitations include "presenting television program data about the selected television program" "upon selection of a particular one of the television programs of the television programming guide," "the television programming guide showing a plurality of different television programs on each of a plurality of different television channels." It also ignores the recitation of "presenting a multimedia identifier to the user within the television programming guide together with the television program data."

If the user annotations are data, then they are not accessible by selecting multimedia identifiers as described in the claim. If the user annotations are the multimedia identifiers then they are not selectable to obtain further data as recited in the claim.

Accordingly, these recitations of Claim 91 are believed to clearly distinguish the invention from this second view of Lopresti as well. The remaining independent claims contain similar recitations and all of the other claims are dependent upon one of the independent claims. Accordingly, the application is believed to be allowable over both readings of Lopresti.



### Conclusion

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

### Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension. Charge our Deposit Account.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
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